

UNDERHILL PLANNING COMMISSION

Wednesday, October 12, 2016 6:30 PM

Minutes

Planning Commissioners Present: Chair Cynthia Seybolt, Carolyn Gregson, Pat Lamphere, Nancy Bergersen, Catherine Kearns

Development Review Board Members Present: Chair Charlie Van Winkle, Matt Chapek, Penny Miller, Karen McKnight

Staff/Municipal Representatives Present: Andrew Strniste, Planning Director

[6:30] The Planning Commission and Development Review Board convened at Underhill Town Hall at 6:30pm. Members of the Commission and the Board introduced themselves to one another.

[6:36] Board Member McKnight gave an announcement regarding an upcoming presentation.

[6:37] Chair Van Winkle provided an overview on why the Development Review Board and the Planning Commission were meeting that evening. He stated that the purpose of the meeting was to **obtain clarification regarding the Regulations**, as well as **voicing any issues and concerns that the Development Review Board has discovered during their hearings**.

[6:38] Chair Van Winkle expressed his opinion regarding the **creation of a zoning overlay district in the Underhill Center** area to provide the Development Review Board a mechanism that grants some flexibility when applying the Regulations to nonconforming lots in Underhill Center.

[6:46] Staff Member Strniste stated that he is expecting to work on a **village designation for Underhill Center** in the coming months, and when the designation is official, it may provide a good idea for the overlay boundaries.

[6:53] A discussion ensued regarding all of the **nonconformity issues that exist in Underhill Center** due to the area being zoned the Water Conservation district. Staff Member Strniste will work with the Development Review Board on **creating language to assist with the nonconformity issues**, hopefully eliminating the possible variances that could be brought the DRB.

[6:55] Chair C. Seybolt asked the Development Review Board if they thought the regulations work. Chair Van Winkle advised the Planning Commission that **in some places, the regulations and the town plan conflict; however, an overlay district may assist in reconciling the two documents**. Specifically, an overlay district may assist in density requirements.

[6:58] Commissioner Lamphere stated that the community would be better as a whole if zoning districts ran with property lines.

[7:00] Chair Van Winkle stated that the Development Review Board tries to take a logical approach when making decisions.

[7:03] A discussion ensued about Certificates of Compliance and Certificates of Occupancy.

[7:07] A discussion then ensued regarding the **delegation of the road ordinance to the Development Review Board**. Chair Van Winkle informed the Planning Commission that the DRB made 55 comments to the Selectboard regarding the Road Ordinance, and none of them were incorporated. A discussion ensued about the **access permit policy**, and that obtaining a preliminary access

permit is not mentioned in the Road Ordinance. Board Member Miller asked if the delegation of the Road Ordinance to the DRB would be reverting back to the old way of conducting business, and if the Development Review Board should take on that responsibility. Chair Van Winkle responded by stating that the DRB already indirectly has that responsibility, and then proceeded to explain some of the many inconsistencies between the Land Use & Development Regulations and the Road Ordinance. Chair C. Seybolt stated that she believes the DRB should handle all matters pertaining to the Development Road.

- [7:15] Board member Miller stated that she believes that the **Development Review Board should be able to consult with the Road Foreman**, as this was once a past practice; however, due to time constraints, this was no longer an option. Having the ability to talk to the Road Foreman would provide the Selectboard, as well as the town, representation during the review process.
- [7:18] A discussion ensued regarding the **streamlining of the access permitting process**, in which a discussion then ensued about whether following the current procedure outlined in the ordinance vs. delegating the road ordinance to the Development Review Board should govern.
- [7:20] Chair Van Winkle identified that the Planning Commission needs to **change the Road Commission reference in the Regulations to Road Foreman**. Commissioner Lamphere again stressed that the process of developing land is complex and that no one gains from the current process. He continued to state that the timeline is unpredictable, and that the regulations should provide a framework for property owners to use their land without being a detriment to others.
- [7:23] Board Member McKnight provided Staff Member Strniste a copy of the Road Ordinance comments the Development Review Board drafted and submitted to the Selectboard. Board Member Miller stated she wished to see the inconsistencies between the Regulations and the Road Ordinance resolved.
- [7:25] Chair Van Winkle began to inquire about question 1 of the questions the Development Review Board asked the Planning Commission that was submitted towards the end of spring. Board Member Penny dissented from the Regional Planning Commission's answer regarding accessory dwellings. A discussion ensued about **when an accessory dwelling becomes a fire/safety issue**, which is when there is one or more bedrooms or when the accessory dwelling is more than 30% of the principal dwelling area. Board Member Miller proposed that **the regulations should only allow accessory dwellings to be no more than 30% of the principal dwelling in order to be consistent with State**. Furthermore, the applicant should be advised that additional permitting from the State is required if an apartment were to exceed those limits. Chair Van Winkle stated that he was in favor of limiting accessory dwellings to 30% of the principal dwelling area.
- [7:41] A brief discussion ensued about **the purpose of the frontage requirement**, which various commissioners identified that the policy behind frontage was to prevent higher densities and to prevent spaghetti lots. Various Board members discussed issues with private roads and stormwater runoff. Board Member Miller volunteered to keep track of frontage issues in an effort to monitor potential issues.
- [7:50] A discussion ensued regarding question 6 pertaining to **previously approved subdivisions**.
- [7:53] Chair Van Winkle inquired about the **enforcement of deed restrictions**, and how the Development Review Board can enforce road maintenance agreements. He continued to state that the DRB currently restricts deeds, and therefore, was inquiring about a provision that would allow the Board to enforce a homeowner's association easement, conservation easement, or trail

easement. Currently, **the Board is relying on a public benefit provision in the Bylaws.** Chair C. Seybolt inquired about needing something explicit in the Regulations. Board Member Miller asked if these requirements can continue to be required via the findings and decisions the Board issues. Commissioner Kearns asked if there was legal precedent to put a provision requiring easements in deeds in the Bylaws.

[8:02] Chair Van Winkle began a discussion on **site plan recording requirements**, as the current practice seems to require too much information. He suggested that the Regulations be amended to state that some of the information provided on the site plan are for reference purposes only, and then proceeded by providing an example: wetland delineations are only good for a five-year period, and therefore, if a plat is recorded that identified wetlands, these areas would be subject to change. Chair C. Seybolt stated that her belief was that the Development Review Board wanted to see subdivision revisions in case of bad engineering drawings. Staff Member Strniste stated that the **Development Review Board should consider adding items under Section 7.8.** Chair Van Winkle followed by stating that the Zoning Administrator will have to look at obtaining professional help if he or she needs assistance in interpreting drawings. A brief discussion ensued about an upcoming subdivision revision hearing, in which Staff Member Strniste stated that the issue at hand could have likely been handle administratively

[8:15] Chair Van Winkle began a discussion regarding the issue of home occupancy running with the land, and that the **Development Review Board thinks a home occupancy should only run with the land if the proper infrastructure is in place.** Commissioner Bergersen stated her belief that if new residents are looking to continue a business that was conducted by the previous owner, then the new resident should have to get a new permit. Chair Van Winkle stated that there was nothing in the Regulations addressing the home occupancy issue, and that this may be something that could be addressed in an overlay district. Board Member Chapek believed that conditional uses should go to the person rather than to the business. A discussion then ensued regarding the market in Underhill Center and the types of permits that could be obtained going forward.

[8:29] Chair Van Winkle then began a discussion about **planned residential developments and the accompanying density bonuses.** He provided an example from a previous Development Review Board hearing where a property owner had nine acres of land and wanted to subdivide it; however, the parcel was located in a five-acre district. A waiver could not be issued due to the precedent that could be set. Chair Van Winkle asked how creative the Development Review Board can get with the bonuses. For example, as Board Member Miller suggested, **can the Development Review Board use the bonuses to get to the threshold.** Board Member Chapek stated that the Regulations suggest having the underlying density requirements prior to applying the density bonuses. Commissioner Lamphere addressed how density bonuses can contravene the zoning district requirements, as well as circumvent the Town Plan and the Planning Commission's intent to retain the agricultural character of the Town. Board Member McKnight and Commissioner Bergersen concurred with Commissioner Lamphere.

[8:40] Chair C. Seybolt asked the Development Review Board about **the addition of landscaping requirements they suggested.** Chair Van Winkle responded by stating the **Board was looking for the authority to require landscaping** since it is not specifically mentioned in the subdivision review article.

[8:45] A brief discussion ensued about the **density requirements and multi-family residences**, in addition to ownership and multi-family residences.

[8:50] Board Member McKnight suggested that Class III wetlands should have a setback of 50 feet, and be more consistent with Class II wetlands. She went on to state that Class III wetlands have not been delineated yet, and that by not having a further setback, there could be a potential water quality issue. Board Member Miller suggested that the Conservation Commission petition the Planning Commission to regarding the setback adjustment suggestion.

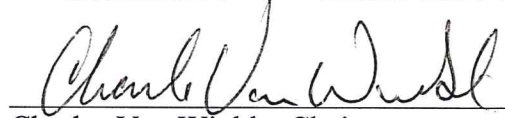
[8:56] Chair C. Seybolt asked for a motion to adjourn. Commissioner Lamphere moved to accept the motion and Commissioner Bergersen seconded the motion. The motion was approved unanimously.

Respectfully Submitted By:
Andrew Strniste, Planning Director

The minutes of the October 12, 2016 meeting were accepted this 2nd day of Nov, 2016.


Cynthia Seybolt, Planning Commission Chair

These minutes of the 10/03/2016 meeting of the DRB were accepted
this 31 day of OCTOBER, 2016.


Charles Van Winkle, Chairperson